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In The

Supreme Court of the United States

October Term, 1963

No. 930

JOSEPH L. SANAPAW, WILLIAM J. GRIGNON, and FRANCIS BASINA,

Petitioners,

v.

STATE OF WISCONSIN,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WISCONSIN

GEORGE THOMPSON
Attorney General

HAROLD H. PERSONS
Assistant Attorney General

JOHN H. BOWERS
Special Counsel

Attorneys for Respondent, State of Wisconsin

State Capitol
Madison, Wisconsin

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v.

STATE OF WISCONSIN,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WISCONSIN

I. OPINION OF THE COURT BELOW.

The opinion of the Supreme Court of Wisconsin is reported in 21 Wis. (2d) 377, 124 N. W. (2d) 41.

II. JURISDICTION.

Respondent opposes the petition for writ of certiorari on the ground that these cases[1] do not present any substantial federal question in connection with the applica-

[1]Two judgments are involved. By agreement of the parties in the Wisconsin Supreme Court the two writs of error were submitted together.

tion of Wisconsin hunting laws to enrolled members of the Menominee Indian Tribe and to the area which was formerly the Menominee Indian Reservation (now Menominee County) following termination of federal supervision and control over the Menominee Indian Tribe by Public Law 399, 83rd Congress, as amended.

III. QUESTION PRESENTED FOR REVIEW.

We respectfully submit the following revision of the question stated in petitioners' petition at page 2:

Upon termination of federal supervision and control over the Menominee Indian Tribe by Public Law 399, 83rd Congress, as amended, did the enrolled members of the Menominee Indian Tribe and the lands in Menominee County, comprised of what was formerly the Menominee Indian Reservation, become subject to Wisconsin laws with respect to hunting in the same manner and to the same extent as other persons and lands within the state?

IV. STATEMENT OF THE CASE.

The defendants Joseph L. Sanapaw, William J. Grignon, and Francis Basina were each charged with hunting deer with the aid of an artificial light, in violation of Wis. Adm. Code, Sec. WCD 10.10 (2), and with the transportation of a loaded and uncased gun in an automobile in violation of Wis. Adm. Code, Sec. WCD 10.07 (3), in the Town of Menominee, in Menominee County, on the 8th and 9th days of September, 1962 (R. 131-132; 140-141).[2] Each of the defendants is an enrolled member of the Menominee Indian Tribe of Wisconsin (R. 133-134). The trial court found that each of the defendants did in fact commit the acts charged in the complaint and warrant, but the court further found that by reason of their enrollment as members of the Menominee Indian Tribe the defendants were not subject to the State's conservation laws and that the applicable statutes and conservation commission orders under which the prosecutions were brought do not apply to the defendants by reason of their enrollment as members of the Menominee Indian Tribe (R. 121-122; 137-138). The state prosecuted writs of error to the Wisconsin Supreme Court pursuant to section 958.12 (1) (d), Wis. Stats., to review the judgments upon the question of law involved. By agreement of the parties, two writs of error were submitted together because the cases presented a common question of law.[3] The Supreme Court of Wisconsin reversed the judgment of the trial court and held that the "Termination Act" abrogated any right to be free of the

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[2]The page references are to the pages of the appendix which was filed in the Wisconsin Supreme Court.

[3]**State v. Sanapaw** (1963), 21 Wis. (2d) 371, 379, 124 N. W. (2d) 41.

state's game laws in exercising hunting rights over the former tribal lands of the reservation.

By the Treaty of October 18, 1848 (9 Stat. 952) between the Menominee Indians and the United States, the Menominees ceded all of their lands in the State of Wisconsin to the United States. The Treaty provided for a grant of lands to the Menominee Indians from the United States for a home west of the Mississippi, and provided that the Menominee Indians would be permitted to remain on the ceded lands in Wisconsin for an ensuing period of three years from the date of the Treaty and until the President notified the Indians that the lands were wanted. The tribe did not remove from Wisconsin and by the Treaty of May 12, 1854 (10 Stat. 1064) the United States ceded a tract of land to the Menominees for a permanent home, and this tract became the Menominee Indian Reservation.

Prior to May 1, 1961, the Menominee Indian Tribe and the Menominee Indian Reservation were, with certain exceptions not material here, subject to federal supervision and control. Title to the Menominee Indian Reservation was held in trust for the tribe by the United States Government. Civil and criminal jurisdiction over the Menominee Indian Reservation was surrendered by the United States Government in favor of the State of Wisconsin in 1954, by Public Law 280, 83rd Congress, as amended (67 Stat. 588, as amended 68 Stat. 795; 18 U. S. C. sec. 1162; 28 U. S. C. sec. 1360). Public Law 280 specifically retained, in favor of the Indians, all hunting and fishing privileges enjoyed by the Indians by reason of federal treaty or statute.

In 1954 Congress provided for the termination of all federal supervision and control over the Menominee Indian

Tribe and the Menominee Indian Reservation by Public Law 399, 83rd Congress, popularly known as the "Termination Act" (68 Stat. 250, as amended, 70 Stat. 544, 70 Stat. 549, 72 Stat. 290, 74 Stat. 867; 25 U. S. C. secs. 891-902). On April 29, 1961, the Secretary of the Interior proclaimed the transfer, pursuant to sec. 8 of the Termination Act, of all tribal property held in trust by the United States Government, and the termination of all federal supervision and control over the Menominee Indians and the Menominee Indian Reservation effective midnight April 30, 1961 (26 Fed. Reg., No. 82, April 29, 1961, page 3726). Upon publication of the "Plan For The Future Control Of Menominee Indian Tribal Property And Future Service Functions" (hereinafter the Plan) in the Federal Register in connection with the proclamation of termination by the Secretary of the Interior, Ch. 259, Wis. Laws 1959, became effective, and what was formerly the Menominee Indian Reservation became Wisconsin's 72nd county (Wis. Laws 1959, Ch. 259, sec. 42).

V. ARGUMENT

UPON TERMINATION OF FEDERAL SUPERVISION AND CONTROL OVER THE MENOMINEE INDIAN TRIBE BY PUBLIC LAW 399, 83rd CONGRESS, THE ENROLLED MEMBERS OF THE MENOMINEE INDIAN TRIBE AND THE LANDS IN MENOMINEE COUNTY, COMPRISED OF WHAT WAS FORMERLY THE MENOMINEE INDIAN RESERVATION, BECAME SUBJECT TO WISCONSIN LAWS WITH RESPECT TO HUNTING, AND THE APPLICATION OF STATE HUNTING LAWS TO SUCH PERSONS AND LANDS PRESENTS NO SUBSTANTIAL FEDERAL QUESTION.

A. *Reasons stated for granting the writ inadequate.*

In support of their petition for the writ, petitioners contend that this case is important not only to the Menominees but to other Indian tribes as well, that since other tribes may be terminated in the future the question will be important to them, that the question is already under litigation in other states, and that the matter has already been productive of much dispute and emotion in other states and needs to be settled (Petition, pages 11-13). The inference is that a decision in this case will settle the matter for other states and tribes. We respectfully submit that it will not. The rights and privileges of other tribes in other states under termination must be decided upon the basis of the particular facts, treaties and statutes involved, and will not be determined or controlled by decision in this case. The treaties between the several Indian tribes in the United States vary in their terms, termination acts vary in their terms, and the jurisdiction of the several

states may vary depending upon the particular territorial ordinance, enabling act and state constitution involved. See, for example, *Tulee v. Washington* (1942), 315 U. S. 681; Klamath Termination Act, 68 Stat. 718, 722; 25 U. S. C. sec. 564m).

B. *Congress has plenary power to deal with the Indians and may abrogate Indian privileges and rights, including treaty rights, by statute.*

The extent to which tribal Indians should be emancipated from their status as wards of the Federal Government is a matter which rests entirely within the discretion of Congress. *Lone Wolf v. Hitchcock* (1903), 187 U. S. 553, 565-567; *United States v. Waller* (1917), 243 U. S. 452, 459-460. The power to make treaties with the Indian tribes was abolished in 1871 (16 Stat. 544, 566; 25 U. S. C. sec. 71) and the United States now deals with the Indians by statute. Congress has plenary power to deal with the Indians and may abrogate Indian privileges and rights, including treaty rights, by statute. *Super et al. v. Work* (CCA, D. C., 1925), 3 F. (2d) 90, affirmed per curiam, 271 U. S. 643. The power of Congress over Indian tribes and tribal property cannot be limited by treaty so as to bar repeal or amendment by later statute.

See,

Ward v. Race Horse (1896), 163 U. S. 504;

Lone Wolf v. Hitchcock (1903), 187 U. S. 553, 565-567;

United States v. Waller (1917), 243 U. S. 452;

Anderson v. Gladden (CCA 9th, 1961), 293 F. (2d) 463, Cert. denied 368 U. S. 949;

See, also,

Organized Village of Kake v. Egan (1962), 369 U. S. 60, 72-76.

Even where there is an *express grant* of hunting or fishing privileges to the Indians, such grant is repealed to the extent that it conflicts with the inherent sovereignty of the state to conserve fish and game within its borders and outside of Indian reservations in the exercise of its police power.

Ward v. Race Horse (1895), 163 U. S. 504;

Kennedy v. Becker (1916), 241 U. S. 556;

See also,

Tulee v. Washington (1942), 315 U. S. 681.

While the foregoing establishes the power of Congress to abrogate Indian privileges and rights, including treaty rights, by statute and to terminate the status of Indians and Indian tribes as wards of the Federal Government, it is of interest to note that the Menominee Indian Treaty of February 11, 1856 (11 Stat. 679) expressly provides, in part:

"* * *

"ARTICLE 3. To promote the welfare and the improvement of the said Menomonees, and friendly relations between them and the citizens of the United States, it is further stipulated—

"1. That in case this agreement and the treaties made previously with the Menomonees should prove insufficient, from causes which cannot now been (be) foreseen, to effect the said objects, the President of the United States may, by and with the advice and consent of the Senate, adopt such policy in the management of the affairs of the Menomonees as in his judgment may be most beneficial to them; or Congress may, hereafter, make such provision by law, as experience shall prove to be necessary."

C. *The Menominee "Termination Act" specifically provides that following termination all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the Menominee Indians, and that the laws of the several states shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.*

The Menominee "Termination Act" (25 U. S. C. secs. 891-902) provides in part:

"[After title to the property of the tribes has been transferred] . . . all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction . . ."

The intent of Congress in passing the "Termination Act" was to terminate federal trusteeship over the Menominee Indians, to abolish the Menominee Indian Reservation, and to make the laws of the several States appli-

cable to the Menominee Indians in the same manner that such laws are applicable to other citizens within the states. This is evident not only from the face of the Termination Act itself, but from *House Concurrent Resolution 108* (67 Stat. B132, 83rd Congress, First Session) which declares as follows in part:

> "Whereas it is the policy of Congress, as rapidly as possible, *to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States,* to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and Whereas the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it
>
> "Resolved by the House of Representatives (the Senate concurring), That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians: . . . the Menominee Tribe of Wisconsin . . ." (Emphasis added.)

The Termination Act contains no reservation of hunting rights or privileges in favor of the Indians. The Indian reservation has been abolished, (Cf. *Organized Village of Kake v. Egan* (1962), 369 U. S. 60, 74) and the status of

the Menominee Indians and the Menominee Indian Tribe as wards of the Federal Government has been ended.

In 26 Federal Register, No. 82, April 29, 1961, at page 3726 the Secretary of Interior proclaimed the transfer of title to all property real and personal held in trust by the United States for the Menominee Indian Tribe, as follows:

> "Pursuant to the authority contained in section 10 of the Act of June 17, 1954 (Public Law 83-399; 68 Stat. 250), it is hereby proclaimed that the title to all property, real and personal, held in trust by the United States for the Menominee Tribe has been transferred in accordance with section 8 of the Act of June 17, 1954, *supra*, and that effective midnight April 30, 1961, individual members of the Menominee Tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians; all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the Menominee Tribe; and the laws of the several States shall apply to the Menominee Tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.
>
> "As required by section 7 of the Act of June 17, 1954, *supra*, the Plan for the Future Control of Menominee Indian Tribal Property and Future Service Functions is published and appears immediately below this notice."

Thus, the United States has divested itself of all right, title and interest to the lands which comprise what was formerly the Menominee Indian Reservation, and has ended its trusteeship over the lands. What was formerly the

reservation is now Wisconsin's 72nd county, governed by a Wisconsin County Board and a Town Board (Wis. Laws, 1959, Ch. 259). Enrolled members of the Tribe are or may become residents of the town and county and elect town and county officers (Wis. Laws, 1959, ch. 259). Accordingly, Wisconsin has jurisdiction to enforce its conservation laws in the area, and over the members of what was formerly the Menominee Indian Tribe, without exception.

See,

Ward v. Race Horse (1896), 163 U. S. 504;

Kennedy v. Becker (1916), 241 U. S. 556;

Anderson v. Gladden (C. C. A. 9th 1961), 293 F. (2d) 463, cert. den., 368 U. S. 949.

This is not a case like *Seymour v. United States* (1961), 368 U. S. 351. In that case this Court held that the state of Washington had no jurisdiction over a crime committed by an Indian on land within an Indian reservation, although such land had been patented in fee to a white man, and was included within the limits of a town, since such land was within "Indian country" as defined by Title 18 of the United States Code (18 U. S. C., sec. 1151). In the *Seymour* case, the status of the Indian in question as a ward of the United States Government, and the status of the place where the offense was committed as an Indian reservation, had not been terminated as in the present case.

Title to the land is held by Menominee Enterprises, Inc., a Wisconsin corporation. This is more than a mere technical change in form of ownership as suggested by petitioners (Petition, page 6, note 11).

For example, the corporation is authorized to lease non-forest lands and to sell to enrolled members of the tribe, or their heirs at law, individual parcels of non-forest lands for homesites and other development. Such sales may not exceed 14,500 acres in the aggregate (Articles of Incorporation, Menominee Enterprises, Inc., 26 Fed. Reg. No. 82, April 29, 1961, page 3730; Appendix, post p. 23). The capital stock of the company is held in a voting trust for the benefit of the members of the tribe. And, while the initial stockholders are tribal members, the voting trust certificates may be transferred by gift or will to a member's spouse and descendants, and, after January 1, 1966, may be sold, subject to certain conditions (26 Fed. Reg. No. 82, April 29, 1961, pages 3735-3737; Appendix, post p. 22).

Petitioners contend that the requirement in the Termination Act that the tribe's Plan contain provisions for the protection of fish and wildlife suggests exclusive tribal jurisdiction because Congress must have been aware of state regulations and would have concluded that such regulations afforded adequate protection had they thought state law applicable (Petition, page 7). Equally tenable, however, is the inference that Congress intended that state law should apply and that the Plan itself, which was submitted to the Secretary of the Interior for approval, should reflect the adequacy of state law to protect fish and wildlife. This conclusion is supported by the fact that the Termination Act also required that the plan provide for ". . . protection of the forest on a sustained yield basis . . ." (25 U. S. C. 896), and authorized the Secretary of the Interior to accept the tribe's plan provided that he found ". . . that it conforms to applicable Federal and State law" (25 U. S. C. 896). The Plan was approved by the Secretary of the

Interior (26 Fed. Reg. No. 82, April 28, 1961, p. 3726 et seq.). Significantly, the Plan itself provides for the protection of the forest on a sustained yield basis, as required by 25 U. S. C. sec. 896, and state legislation for that specific purpose was enacted (Wis. Laws 1959, ch. 258; see *Plan for the Future Control of Menominee Indian Tribal Property and Future Service Functions*, 26 Fed. Reg. No. 82, April 29, 1961, p. 3727 et seq.). The Plan, on the other hand, contained no express provision for the protection of fish and wildlife. It is therefore fair to conclude that a separate provision for protection of fish and wildlife was unnecessary since such protection is provided by the application of Wisconsin's conservation laws to the area and to the members of the tribe.

D. *The treaties between the Menominee Indian Tribe and the United States established no hunting rights or privileges in favor of the Indians within the State of Wisconsin which could continue following termination.*

The Menominee Indian Reservation was created in 1854 out of lands which previously had been ceded by the Menominees to the United States (10 Stat. 1064). The reservation was created by a *grant of lands* to the Indians from the United States, which lands were at the time a part of the public domain and subject to disposal under general law. *Menominee Tribe v. United States* (1941), 95 C. Cls. 232. Accordingly, the Treaty of 1854 (10 Stat. 1064) creating the Menominee Indian Reservation was not a reservation of rights by the Indians, it was a grant to the Indians. The treaty is silent as to the granting of any

hunting privileges or rights in favor of the Indians. Consequently the treaty imposed no servitude on the lands in question in favor of the Indians. Exemption from state conservation law could only be accorded the Menomineés so long as their status as wards of the federal government continued, and while the area remained an Indian reservation. See, *Ward v. Race Horse* (1895), 163 U. S. 504; see, also, *State v. Johnson* (1933), 212 Wis. 301, 309, 249 N. W. 284.

In its opinion the Wisconsin Supreme Court held that the provision in the Treaty of 1854 to the effect that the lands in question would be held as "Indian lands are held" meant that the Indians enjoyed the same exclusive hunting rights free from the restriction of the state's game laws over the ceded lands, which comprised the Menominee Indian Reservation, as they had enjoyed over the lands ceded to the United States by the 1848 treaty. The court went on to determine that such rights were terminated by Public Law 399. It is respectfully submitted that the provision in the Treaty of 1854 to the effect that the lands in question would be held as "Indian lands are held" means simply that they are held as the Congress directs.

The fact that the provision whereby the lands in question were "to be held as Indian lands are held" includes exclusive hunting rights free from the restrictions of the state's game laws over the ceded lands prior to termination does not mean that such provision imposed a servitude upon the lands.

Significantly the Act of April 20, 1836 (5 Stat. 10), creating the Territory of Wisconsin, expressly reserved

Indian rights. The Act of August 6, 1846 (9 Stat. 56), to enable the Territory of Wisconsin to become a state and the Act of May 29, 1848 (9 Stat. 233), admitting Wisconsin into the Union are silent as to the reservation of rights in favor of the Indians. Wisconsin was admitted into the Union on equal footing with the original states. Accordingly, the enabling Act of August 6, 1846, and the act admitting Wisconsin into the Union on an equal footing are in patent conflict with any grant, express or implied,[4] of hunting privileges in favor of the Indians which would survive a conveyance of title to the reservation lands to a private corporation, and the dissolution of the reservation and the trusteeship of the United States over the Indians thereby ending their status as wards of the Federal Government. *Ward v. Race Horse* (1895), 163 U. S. 504, 514, 516.

This is not a case like *Tulee v. Washington* (1942), 315 U. S. 681, in which this Court held that where a treaty with the Yakima Indians expressly reserved to members of the tribe certain fishing privileges, and where the state did not deny that the enabling act which admitted Washington as a state preserved the treaty rights of the Indians, the State could not require the Indians to pay a license fee. Significantly, however, this Court did recognize the power of the State to impose purely regulatory restrictions upon the fishing privileges of such Indians outside of their reservations, despite the express reservation of fishing privileges in favor of the Indians contained in the treaties.

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[4]According to **Menominee Tribe v. United States** (1941), 95 C. Cls. 232, 241, part of the inducement for selecting the lands in question for the Menominee Reservation was that they contained swamp lands which were suitable for hunting.

Tulee v. Washington (1942), 315 U. S. 681, 684; See, also, *Maison v. Federated Tribes* (C. C. A. 9th, 1963), 314 F. 2d 169, cert. den. 375 U. S. 829.

In the light of the foregoing, any attempted reservation of hunting rights or privileges in favor of the Indians which would exempt them from the state's conservation laws, following abolition of the reservation, and the termination of the federal trusteeship over the individual Indians, would be of doubtful constitutionality, particularly in view of the fact that Wisconsin was admitted into the Union on an equal footing with the other states and without any reservation of such rights in favor of the Indians. *Ward v. Race Horse* (1895), 163 U. S. 504; *State v. Johnson* (1933), 212 Wis. 301, 309, 249 N. W. 284.

CONCLUSION

It is therefore respectfully submitted that the facts of this case do not present any substantial federal question and that the application for writ of certiorari should be denied.

Respectfully submitted,

GEORGE THOMPSON
Attorney General

HAROLD H. PERSONS
Assistant Attorney General

JOHN H. BOWERS
Special Counsel

Attorneys for Respondent,
State of Wisconsin

APPENDIX

APPENDIX

FEDERAL REGISTER, Volume 26, No. 82, April 28-29, 1961, pages 3726-3755, in part:

* * *

F. R., p. 3726:

DEPARTMENT OF THE INTERIOR
Office of the Secretary

TERMINATION OF FEDERAL SUPERVISION OVER THE PROPERTY OF THE MENOMINEE TRIBE OF WISCONSIN AND OF THE INDIVIDUAL MEMBERS THEREOF

Pursuant to the authority contained in section 10 of the Act of June 17, 1954 (Public Law 83-399; 68 Stat. 250), it is hereby proclaimed that the title to all property, real and personal, held in trust by the United States for the Menominee Tribe has been transferred in accordance with section 8 of the Act of June 17, 1954, *supra*, and that effective midnight April 30, 1961, individual members of the Menominee Tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians; all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the Menominee Tribe; and the laws of the several States shall apply to the Menominee Tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

As required by section 7 of the Act of June 17, 1954, *supra*, the Plan for the Future Control of Menominee Indian Tribal Property and Future Service Functions is published and appears immediately below this notice.

STEWART L. UDALL,
Secretary of the Interior.

April 26, 1961.

[F.R. Doc. 61-4004; Filed, Apr. 28, 1961; 8:55 a.m.]

F. R., p. 3727:

Saturday, April 29, 1961

Bureau of Indian Affairs

PLAN FOR THE FUTURE CONTROL OF MENOMINEE INDIAN TRIBAL PROPERTY AND FUTURE SERVICE FUNCTIONS

The Plan consists of the following documents:

1. Statement of the Plan and Description of its Objectives and Goals (revised December 1, 1960).

2. Articles of Incorporation of Menominee Enterprises, Inc. (revised November 30, 1959).

3. By-Laws of Menominee Enterprises, Inc. (revised November 30, 1959).

4. Menominee Common Stock and Voting Trust (revised November 30, 1959).

5. Menominee Assistance Trust (revised November 30, 1959).

6. Menominee Enterprises, Inc., Bond Indenture (form of bond included) (revised November 30, 1959).

7. Menominee Indian Tribe, Certificate of Beneficial interest.

In addition the following documents are included by reference:

1. Resolution of General Council, Menominee Indian Tribe, January 17, 1959.

2. Resolution of General Council, Menominee Indian Tribe, July 27, 1959.

3. Resolution of Advisory Council, Menominee Indian Tribe, July 28, 1959.

4. Letter of Glen A. Wilkinson, Attorney for Tribe, to Secretary of Interior, July 31, 1959.

5. Letter from Acting Secretary of Interior to James G. Frechette, Chairman, Menominee Advisory Council, July 31, 1959.

6. Letter from Acting Secretary of Interior to James G. Frechette, Chairman, Menominee Advisory Council, October 30, 1959.

6a. Letter from George W. Abbott, Assistant Secretary of Interior to Jerome Grignon, Chairman, Menominee Advisory Council, January 9, 1961.

7. Copies of Chapters 258, 259, and 260, Laws of Wisconsin, 1959.

* * *

C

F. R., p.3730:

Articles of Incorporation of Menominee Enterprises, Inc.

The undersigned individuals, who are the members of the Coordinating and Negotiating Committee of the Menominee Indian Tribe, for the purpose of forming a Wisconsin corporation under Chapter 180 of the Wisconsin Statutes, do hereby adopt the following Articles of Incoroation:

ARTICLE I—NAME

The name of the corporation is Menominee Enterprises, Inc.

* * *

ARTICLE XII—SALE OF LAND

Unless otherwise authorized by the affirmative vote of the holders of not less than two-thirds of the outstanding shares of stock entitled to vote thereon, the corporation shall have no authority to sell, exchange, assign, convey or otherwise transfer all or any portion of the real property owned by the corporation; provided, however, that the board of directors, or the appropriate officers at the direction of the board of directors, may mortgage or pledge corporation assets, for such borrowing purposes as it shall

deem necessary and advisable, in an amount not exceeding $250,000: and, provided, further, that the board of directors or the appropriate officers at the direction of the board of directors shall have authority to lease real property other than lands designated as forest lands; and, provided, further, that the board of directors, or the appropriate officers at the direction of the board of directors, shall have authority to sell or to convey to individuals, who were enrolled tribal members under section 893, Title 25, U. S. C. (final roll) or their heirs-at-law, individual parcels which in the aggregate will not exceed 14,500 acres for home sites, agricultural use or other development, which lands shall be zoned for that purpose and shall not include lands designated as forest lands.

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F. R., p. 3734:

Menominee Common Stock and Voting Trust

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F. R., p. 3736:

(A) No Beneficiary may transfer any Trust Certificates prior to January 1, 1966, except that transfers may be made by gift or by will or operation of laws of deseent at death, subject to the conditions specified in paragraphs (C) (1) and (2) and (D).

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